IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH JAIPUR.

J U D G M E N T

D.B. CIVIL SPECIAL APPEAL NO.736/2007.

Sushila Jain and anr.
Vs.
Syndicate Bank and anr.

Date of Order:- July 30 2007.

**HON'BLE THE ACTING CHIEF JUSTICE MR.J.M. PANCHAL**
**HON'BLE MR.JUSTICE MOHAMMAD RAFIQ**

Mr. Virendra Dangi for appellants.

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The instant appeal is directed against the order dated March 3 2006 rendered by the learned Single Judge in S.B. Civil Misc.Application No.526/2005 as well as the order dated July 21 2006 passed in S.B. Civil Misc.Application No.121/2006 arising out of S.B. Civil Writ Petition No.7301/2005, by which the application for impleadment of Abhishek Jaiswal who is auction purchaser of the property in question is granted and the prayer made by the appellants to recall the said order is rejected.

What is stated in S.B. Civil Writ Petition No.7301/2005 by the appellants is that they are

owners of the property in question whereas the case of Mr.Abhishek Jaiswal is that property is purchased by him in auction sale. Therefore, he made an application for being impleaded as respondent in the petition filed by the appellants. The said application was allowed by the learned Single Judge vide order dated March 3 2006. While allowing the said application, it was clarified that the impleadment was subject to the objection if any which might be raised by the appellants at the time of consideration of writ petition.

The appellants contend that Abhishek Jaiswal was minor and therefore, he could not have purchased the property at the auction. Therefore, the appellants filed application with a prayer to recall the order dated March 3 2006. The said application was also rejected by the learned Single Judge vide order dated July 21 2006 giving rise the instant appeal.

This court has heard the learned counsel for the appellant.

The points which are sought to be raised in support of the instant appeal can very well be urged before the learned Single Judge when the writ petition is taken up for hearing. This has been clarified by the learned Single Judge in order dated March 3 2006. The case of Mr.Abhishek Jaiswal is that he is auction purchaser. Before setting aside the auction, the auction purchaser has right to be heard. Under the circumstances, the two orders which are subject-matter of challenge in the instant appeal cannot be said to be erroneous so as to warrant interference of this Court in the instant appeal.

The appeal which lacks merits deserves to be dismissed summarily.

For the foregoing reasons, the appeal fails and is summarily dismissed.

**(MOHAMMAD RAFIQ), J.** **(J.M. PANCHAL), ACJ.**

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